S.B.Criminal Misc. Petition No.428/2005
(Shanker Lal vs. Smt. Durga Devi)

Date of order : 25.7.2006

HON'BLE MR.H.R.PANWAR,J.

None present, for the petitioner.

Mr. H.S. Shrimali, Advocate submits that he has no instruction. He submits that after filing of the petition by the petitioner through him, Shri Shyam S.Khatri has filed his power on behalf of the petitioner.

I have carefully gone through the record. It appears that the petition was filed on 20.4.2005 by the petitioner through his counsel Mr. H.S.Shrimali. Subsequently, on 5.1.2006, Mr. Shyam S.Khatri has filed the power on behalf of the petitioner. Mr. Shyam S.Khatri is present in Court. He also states that he has no instruction. Thus, no one appears for the petitioner.

I have perused the petition as also the grounds mentioned therein.

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has assailed the order dt. 11.3.2005

passed by Judicial Magistrate, Bikaner (for short 'the trial court' hereinafter), whereby the trial court granted interim maintenance in favour of non-petitioner Smt. Durga Devi at the rate of Rs.500/- per month from the date of application. On close scrutiny of the order impugned, I do not find any error, illegality or perversity in the order impugned. It cannot be said that the order impugned would result in serious miscarriage of justice. It has not been disputed in the petition as also before the trial court that non-petitioner is legally wedded wife of the petitioner. From the averments made in the petition, the non-petitioner has prima facie established that despite sufficient means, the petitioner has failed to maintain her. In the circumstances, therefore, no fault can be found in the order granting interim maintenance at the rate of Rs.500/- per month from the date of application.

Consequently, the petition is dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

m.asif/-